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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/699,098

10/27/2000

Frederick S. M. Herz

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EXAMINER

MAHMOUDI, HASSAN

ART UNIT

PAPER NUMBER

2165

MAIL DATE

DELIVERY MODE

04/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/699,098	<b>Applicant(s)</b> HERZ ET AL.	
	<b>Examiner</b> Tony Mahmoudi	<b>Art Unit</b> 2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-12 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's Request for Continued Examination (RCE) submission filed on 19-February-2008 has been entered.

### ***Remarks***

2. In view of communications filed on 19-February-2008, claims 3-12 are presently pending in the application, of which, claim 3 is presented in independent form.

### ***Information Disclosure Statement***

3. The information disclosure statement filed on 19-February-2008 fails to comply with 37 CFR 1.98(a)(3)(i) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each reference listed that is not in the English language. The IDS has been placed in the application file, but the information referred to therein has not been considered.

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4. Foreign References identified as “B1” (bottom of page 5) and “B4” (on page 6) do not contain an English language translation and require a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, in order to be considered.
5. Additionally, the Non-Patent Literature documents identified as “C7” (on page 6) ; “C43” (on page 8); and “C111” (on page 12), seem to have been “blackened-out” by the Applicant. These references will also not be considered by the Examiner.

### ***Specification***

6. The ***Substitute*** specification of the instant Application, filed on 19-May-2005, is objected to for the following informalities:

There are several “bracketed” spaces (placeholders) in the above referenced specification document which are required to be filled-out by the Applicant, as follows:

- On page 20, lines 20-21.
- On page 80, line 27.
- On page 83, lines 6-7.
- On page 84, line 28.
- On page 151, lines 27-28.
- On page 161, line 10.
- On page 166, line 14.
- On page 177, line 14.
- On page 184, line 18.
- On page 185, line 29.
- On page 215, line 24.
- On line 316, line 4.

A correct and complete copy of the specification is required for Allowance of the instant Application.

*Allowable Subject Matter*

7. Claims 3-12 remain allowed over the prior art made of record.

*Response to Arguments*

8. There are presently no arguments outstanding in the Application.

*Conclusion*

9. This application is in condition for allowance except for the formal matters as detailed in paragraphs 3-6 of this Office Action.

**Prosecution on the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

10. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Tony Mahmoudi whose telephone number is (571) 272-4078. The examiner can normally be reached on Mondays-Fridays from 08:00 am to 04:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian Chace, can be reached at (571) 272-4190.

April 7, 2008

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/Tony Mahmoudi/

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